

IN THE  
UNITED STATES PATENT AND TRADEMARK OFFICE

#11  
2 of 3

Inventor(s): Steven L Webb et al

Confirmation No.: 6354

Application No.: 09/234255

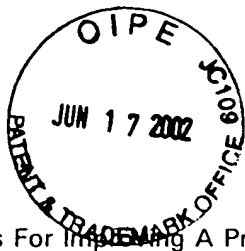
Examiner: Joseph, Thomas J

Filing Date: Jan 20, 1999

Group Art Unit: 2174

Title: Method And Apparatus For Improving A Progress Monitor During A Long Computer Process

COMMISSIONER FOR PATENTS  
Washington, D.C. 20231



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TRANSMITTAL OF APPEAL BRIEF

Sir:

Transmitted herewith in triplicate is the Appeal Brief in this application with respect to the Notice of Appeal filed on June 10, 2002.

The fee for filing this Appeal Brief is (37 CFR 1.17(c)) \$320.00.

(complete (a) or (b) as applicable)

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136(a) apply.

( ) (a) Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 37 CFR 1.17(a)-(d) for the total number of months checked below:

( ) one month	\$110.00
( ) two months	\$400.00
( ) three months	\$920.00
( ) four months	\$1440.00

( ) The extension fee has already been filled in this application.

(X) (b) Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Please charge to Deposit Account 08-2025 the sum of \$320.00. At any time during the pendency of this application, please charge any fees required or credit any over payment to Deposit Account 08-2025 pursuant to 37 CFR 1.25. Additionally please charge any fees to Deposit Account 08-2025 under 37 CFR 1.16 through 1.21 inclusive, and any other sections in Title 37 of the Code of Federal Regulations that may regulate fees. A duplicate copy of this sheet is enclosed.

(X) I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Washington, D.C. 20231. Date of Deposit: June 10, 2002

OR

( ) I hereby certify that this paper is being transmitted to the Patent and Trademark Office facsimile number \_\_\_\_\_ on \_\_\_\_\_

Number of pages:

Respectfully submitted,

Steven L Webb et al

By [Signature]

Steven L Webb

Attorney/Agent for Applicant(s)

Reg. No. 44,205

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PATENT APPLICATION

ATTORNEY DOCKET NO. 10980134-1



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Inventor(s): Steven L. Webb et al.

Serial No.: 09/234,255

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THE ASSISTANT COMMISSIONER OF PATENTS  
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BRIEF ON APPEAL

INTRODUCTION

Pursuant to the provisions of 37 CFR § 1.191 *et seq.*, applicants hereby appeal to the Board of Patent Appeals and Interferences (the "Board") from the examiner's final rejection dated 3/15/2002. A notice of appeal was sent on the same day as this appeal brief. This brief on appeal is being filed in triplicate (37 CFR § 1.192(a)) and is accompanied by the requisite fee (37 CFR 1.192(a) and 1.17(f)).

REAL PARTY IN INTEREST

The entire interest in the present application has been assigned to Hewlett-Packard Company as recorded at Reel 010031, Frame 02621.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

There are no related appeals or interferences.

#### **STATUS OF CLAIMS**

Claims 1 - 10 are pending.

Claims 1 - 10 have been finally rejected.

Claims 1 - 10 are on appeal.

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#### **STATUS OF AMENDMENTS**

There are pending amendments on claims 1 and 10 that will put claims 1 and 10 in better condition for appeal (see appendix II).

#### **SUMMARY OF INVENTION**

This invention relates generally to a progress monitor and more specifically to a progress monitor that can uncover or reveal information during the movement of the progress bar (page 3, lines 15 - 17 and Claim 1 and 10). A progress monitor typically measures a process by visually indicating how much of the process has been completed. When the process starts, the progress monitor typically shows a progress area of a uniform shade or color. As the process progresses, the progress monitor shows the progress of the process by changing the color or shade of the progress area of the progress monitor in proportion to the amount of completion of the process being monitored (page 2, lines 8 - 16). For example, when a process is 30% completed, the progress monitor would have 30% of the progress area in a new shade or color with the remaining 70% in the original shade or color (page 4,

lines 22 - 25 and page 5, lines 0 - 4). In this invention, information is uncovered or revealed as the progress bar changes in response to the progress of the process being monitored (page 3, line 15 - 17, claims 1 and 10). The progress area of the progress monitor may be shaped as a rectangle (page 2, lines 5 - 8, claim 2). The motion used to indicate progress may be linear or may be angular (page 4 lines 12 - 15, claims 8 and 9).

### **ISSUES**

1. Whether claims 1 and 10 are unpatentable under 35 U.S.C. § 103(a) over Hall, Jr. et al (5,805,166).

### **GROUPING OF CLAIMS**

For the purpose of this appeal claims 1 through 9 stand or fall together.  
Claim 10 stands on its' own.

## ARGUMENT

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### OUTLINE

- I. Summary of the brief on appeal.
- II. Summary of the requirements for *prima facie* obviousness.
- III. Claim 1 rejection.
- IV. Claim 10 rejection.



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### I. Summary of the brief on appeal

- A. The 35 U.S.C. § 103(a) rejection of claims 1 is improper because a *prima facie* case for obviousness has not been established, for the following reasons: (1) the cited art does not teach or suggest every element of the claims, (2) the examiner incorrectly characterizes the cited art.
- B. The 35 U.S.C. § 103(a) rejection of claim 10 is improper because a *prima facie* case for obviousness has not been established, for the following reasons: (1) the cited art does not teach or suggest every element of the claim, (2) the examiner incorrectly characterizes the cited art.

### II. Summary of the requirements for *prima facie* obviousness.

MPEP 2143.03

The prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974).

If an independent claim is nonobvious under 35 U.S.C. 103, then any claim dependent therefrom is nonobvious. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988).

## OTHER RELEVANT CASE LAW

"Factors including unexpected results, new features, solution of a different problem, novel properties, are all considerations in the determination of obviousness in terms of 35 U.S.C. § 103. When such factors are described in the specification they are weighed in determining, in the first instance, whether the prior art presents a prima facie case of obviousness." *In re Wright*, 6 U.S.P.Q.2d 1959, 1962 (Fed. Cir. 1988).

### III. Claim 1 rejection.

Claim 1 has been finally rejected under 35 USC § 103(a) as being unpatentable over Hall et al (5,805,166). Claim 1 requires "a progress area" and "a progress indicator that divides the progress area into a first part of the progress area and a second part of the progress area, where the first part of the progress area corresponds to the amount of completion of the process being monitored;" and "information, in addition to the progress of the process, visible displayed in the first part of the progress area." The examiner indicates that information in the window graphic of Hall can be interpreted as being part of the first part of the progress area when the entire window is interpreted as the progress area. However, if the entire window is interpreted as being the progress area, then the first part of the progress area no longer corresponds to the amount of completion of the process being monitored as required by claim 1. If the entire window is not part of the first part of the progress area, then the requirement of having information, in addition to the progress of the process, visible displayed in the first part of the progress area, is no longer met. Hall does not teach or suggest that the additional information displayed is located in the part of the progress area that corresponds to the amount of completion of the process being monitored. Hall only shows additional information near or next to the progress area that corresponds to the amount of completion of the process being monitored. Therefore Hall does not teach or suggest all the limitations required by claim 1 and claim 1 is allowable as written.

In the final rejection (dated 3/15/2002) the examiner states that applicant fails to describe the distinction between the first and second areas. Claim 1 clearly indicates that the progress area is divided into two parts. The first part of the progress area corresponds to the amount of completion of the process being monitored. The second part of the progress area therefore is the amount of the process that has not yet been completed (see page 2, lines 9 – 11 “Thus, when the process is one third done the progress bar will be one third of one color or shade, and two thirds of the original color or shade).

The examiner also stated “the rectangular progress bar taught by Hall is the first progress area while the icons located near the said progress area is in the second progress area”. This incorrectly characterizes Hall with respect to applicant’s invention. The rectangular area in Hall corresponds to the total progress area of applicant’s invention. This rectangular area would be divided into two parts in applicant’s invention. When the process has just started, the first part of the progress area will be very small. In applicant’s invention, information would also be displayed inside the first part of the progress area. When the first part of the progress area is a small portion of the total progress area, the amount of information shown will be small. As the process being monitored continues, the first part of the progress area will grow larger and the second part of the progress area will grow smaller. As the first part of the progress area grows larger more information is displayed inside the first part of the progress area. Hall does not show information inside the first part of the progress area as defined in the current application. This is true even using the examiner’s definition of the rectangle as being the first part of the progress area. Therefore Hall does not teach or suggest all the limitations required by claim 1 and claim 1 is allowable as written.

#### **IV. Claim 10 rejection.**

Claim 10 has been finally rejected under 35 USC § 103(a) as being unpatentable over Hall et al (5,805,166). Claim 10 is a method of revealing information by a progress monitor. Hall does not reveal or uncover information. Claim 10 requires “defining a progress area” and then “dividing the progress area into a first part of the progress area and a second part where the first part of the

progress area corresponds to the amount of completion of the process being monitored;" and "visibly displaying information, in addition to the progress of the process, in the first part of the progress area." Hall does not visibly display information in a part of the progress area that corresponds to the amount of completion of the process being monitored. The examiner indicates that information in the window graphic of Hall can be interpreted as being part of the first part of the progress area when the entire window is interpreted as the progress area. However, if the entire window is interpreted as being the progress area, then the first part of the progress area no longer corresponds to the amount of completion of the process being monitored as required by claim 10. If the entire window is not part of the first part of the progress area, then the requirement of having information, in addition to the progress of the process, visible displayed in the first part of the progress area, is no longer met. Hall does not teach or suggest that the additional information displayed is located in the part of the progress area that corresponds to the amount of completion of the process being monitored. Hall only shows additional information near or next to the progress area that corresponds to the amount of completion of the process being monitored. Therefore Hall does not teach or suggest all the limitations required by claim 10 and claim 10 is allowable as written.

In the final rejection (dated 3/15/2002) the examiner states that applicant fails to describe the distinction between the first and second areas. Claim 10 clearly indicates that the progress area is divided into two parts. Where the first part of the progress area corresponds to the amount of completion of the process being monitored. The second part of the progress area therefore is the amount of the process that has not yet been completed (see page 2, lines 9 - 11 "Thus, when the process is one third done the progress bar will be one third of one color or shade, and two thirds of the original color or shade).

The examiner also stated "the rectangular progress bar taught by Hall is the first progress area while the icons located near the said progress area is in the second progress area". This incorrectly characterizes Hall with respect to applicant's invention. The rectangular area in Hall corresponds to the total progress area of applicant's invention. This rectangular area would be divided into two parts in applicant's invention. When the process has just started, the first part of the progress



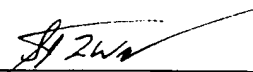
area will be very small. In applicant's invention, information would also be displayed inside the first part of the progress area. When the first part of the progress area is a small portion of the total progress area, the amount of information shown will be small. As the process being monitored continues, the first part of the progress area will grow larger and the second part of the progress area will grow smaller. As the first part of the progress area grows larger more information is displayed inside the first part of the progress area. Hall does not show information inside the first part of the progress area as defined in the current application. This is true even using the examiner's definition of the rectangle as being the first part of the progress area. Therefore Hall does not teach or suggest all the limitations required by claim 10 and claim 10 is allowable as written.

### Conclusion

In view of the above, applicant respectfully request that the examiner's rejection of claims 1 - 10 be reversed.

Respectfully submitted,

By



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**APPENDIX I**  
**CLAIMS AS CURRENTLY PENDING**

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- 1) A progress monitor comprising:
  - a progress area used to indicate the progress of a process being monitored;
  - a progress indicator that divides the progress area into a first part of the progress area and a second part of the progress area, where the first part of the progress area corresponds to the amount of completion of the process being monitored;
  - information, in addition to the progress of the process, visibly displayed in the first part of the progress area.
- 2) The progress monitor of claim 1 where the progress area is a rectangle.
- 3) The progress monitor of claim 1 where the progress area is a half circle.
- 4) The progress monitor of claim 1 where the progress area is a half ellipse.
- 5) The progress area of claim 1 where the first part of the progress area is a first color and the second part of the progress area is a second color and the progress indicator is defined by the change in color between the first part of the progress area and the second part of the progress color.
- 6) The progress monitor of claim 1 where the progress indicator is a line dividing the first part of the progress area from the second part of the progress area.
- 7) The progress monitor of claim 1 where the information being uncovered is the next line of text in a story.
- 8) The progress monitor of claim 1 where the motion of the progress indicator is linear.

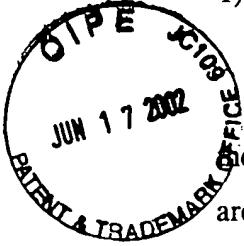
9) The progress monitor of claim 1 where the motion of the progress indicator is angular.

10) A method of revealing information by a progress monitor during the monitoring of a process comprising the steps of:

- a) defining a progress area;
- b) dividing the progress area into a first part and a second part where the first part of the progress area corresponds to the amount of completion of the process being monitored;
- c) visibly displaying information, in addition to the progress of the process, in the first part of the progress area;

repeating steps b and c until the process being monitored has been completed.

APPENDIX II  
CLAIMS WITH PROPOSED AMENDMENTS



1) (amended once) A progress monitor comprising:

a progress area used to indicate the progress of a process being monitored;  
a progress indicator that progressively divides the progress area into a first part of the progress area and a second part of the progress area, where the first part of the progress area corresponds to the amount of completion of the process being monitored;  
information, in addition to the progress of the process, becoming visible in the first part of the progress area as the first part of the progress area becomes larger.

10) (amended once) A method of reveling information by a progress monitor during the monitoring of a process comprising the steps of:

- a) defining a progress area;
- b) dividing the progress area into a first part and a second part where the first part of the progress area corresponds to the amount of completion of the process being monitored;
- c) moving the dividing point between the first part and the second part of the progress area as the process progresses.
- d) displaying information in the first part of the progress, that was not displayed in the second part of the progress area;
- e) repeating steps c and d until the process being monitored has been completed.